

DETAILED ACTION

Status of the Application

The amended claims of 12 Oct 2005, canceling claims 1-17 and introducing new claims 18-34 is acknowledged. Claims 18-34 are being examined on their merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

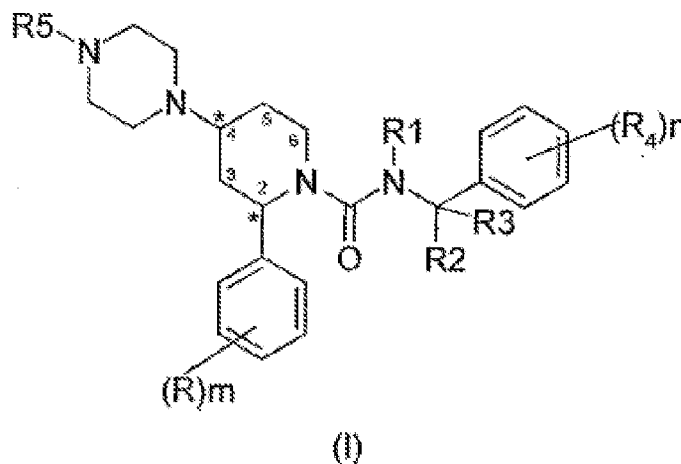
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.

Claims 18-34 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by ALVARO et al. (WO 02/32867, 25 April 2002).

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ALVARO et al. teach of compounds of formula (I) (claim 1):



The compounds of formula (I) clearly encompass the claimed compound of the instant application, claim 18b. Specifically, ALVARO et al. teach that the preferred compound of formula (I) is 4-(S)-(4-Acetyl-piperazin-1-yl)-2-(R)-(4-fluoro-2-methyl-phenyl)-piperidine-1-carboxylic acid [1-(R)-(3,5-bis-trifluoromethyl-phenyl)-ethyl]-methyl-amide methanesulphonate (claim7), applicants claimed compound.

ALVARO et al. define these compounds as a class of compounds having advantageous properties in the treatment of conditions mediated by tachykinins (see page 2, lines 1-3), of which, depression (see page 10, lines 10-12) and anxiety (see page 10, line 14) are mentioned. Additionally, ALVARO et al. teach that their compounds may be used in combination with SSRI compounds, one of which is paroxetine (see page 14, line 8). The dosage amount described by ALVARO et al. ranges from 20-60 mg of 4-(S)-(4-Acetyl-piperazin-1-yl)-2-(R)-(4-fluoro-2-methyl-phenyl)-piperidine-1-carboxylic acid [1-(R)-(3,5-bis-trifluoromethyl-phenyl)-ethyl]-methylamide methanesulphonate, which encompasses the claimed dosages of the present application. Finally, ALVARO et al. teach of pharmaceutical compositions comprising a

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compound of formula (I) in admixture with one or more pharmaceutically acceptable carriers or excipients (see claim 11).

Thus ALVARO et al. teach each aspect of the instantly claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley R. Graham whose telephone number is 571-270-1563. The examiner can normally be reached on M-R 8 am-3 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SRG

14 January 2008

/Ardin Marschel/

Supervisory Patent Examiner, Art Unit 1614